

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
SOUTHEASTERN DIVISION**

CONNIE E. KUSSMAN,

Plaintiff,

vs.

**MICHAEL J. ASTRUE,
Commissioner of Social Security,**

Defendant.

)
)
)
)
)
)
)
)
)
)
)

Case No. 1:07CV63 LMB

FILED
CLERK OF COURT

MEMORANDUM AND ORDER

This is an action under 42 U.S.C. § 405(g) for judicial review of defendant's final decision denying Connie E. Kussman's application for disability benefits under the Social Security Act. Currently pending is Defendant's Motion for Remand with Suggestions in Support. (Document Number 5). Plaintiff has not filed a Response.

Defendant in his motion informs the court that the Appeals Council of the Social Security Administration has determined that the recording of the administrative hearing held on October 4, 2004, is partially or totally blank, preventing the preparation of a proper court record. Defendant requests remand of the case to an Administrative Law Judge to hold another hearing and issue a new decision. Defendant asserts that good cause exists to support his request for remand.

Sentence six of 42 U.S.C. § 405(g) provides that "[t]he court may, on motion of the Secretary made for good cause before he files his answer, remand the case to the Secretary for further action by the Secretary . . ." After a remand under sentence six, the district court retains jurisdiction until the post-remand proceedings are completed and the Commissioner has filed the results with the

district court. See Shalala v. Schaefer, 509 U.S. 292, 298, 113 S.Ct. 2625, 2629, 125 L.Ed.2d 239 (1993).


The courts finds that it is appropriate to remand this case in order to permit the Commissioner to take the action requested in his motion. Defendant has shown good cause why remand is warranted. Without a complete file, the court would be unable to determine whether the Commissioner's denial of plaintiff's application was based on substantial evidence on the record as a whole.

Accordingly,

IT IS HEREBY ORDERED that Defendant's Motion for Remand with Suggestions in Support (Doc. No. 5) be and it is **granted**.

IT IS FURTHER ORDERED that this case be **remanded** to the Commissioner for further proceedings pursuant to sentence six of 42 U.S.C. § 405(g) and that the court retain jurisdiction of the case and reserve final judgment until the parties have complied with the statutory post-remand requirements of 42 U.S.C. § 405(g).

Dated this 13th day of September, 2007.

A handwritten signature in black ink, appearing to read 'Charles A. Shaw', is written over a horizontal line.

CHARLES A. SHAW
UNITED STATES DISTRICT JUDGE